

Joint Committee on Taxation
June 18, 1984
JCX-20-84

The attached items were provided for the information of the conferees only and do not necessarily reflect any decisions made in the conference.

CONFERENCE ISSUES

I. Tax Freeze; Tax Reforms Generally

D. Corporate Tax Provisions

I. Foreign Provisions

71. Income from factoring trade receivables (p. 106)
- (c) House recedes, with amendments. Purchase of receivables from a related U.S. person that arise from a sale to another U.S. person will constitute an investment in U.S. property. However, receivables purchased by a Belgian corporation before March 1, 1984, will be treated as U.S. property for taxable years ending on or before March 1, 1984, so long as this exception does not exclude from investment in U.S. property more than the lesser of (i) \$15 million of earnings and profits, or (ii) the Belgian corporation's investment in stock of a foreign corporation formed to issue bonds to the public outside of the United States.

J. Compliance Provisions

97. Modifications to charitable contribution rules and incorrect valuation penalties (p. 134)
- (a) Substantiation requirements
- Appraisal.--House recedes (to requirement of independent appraisal for certain property donations by individuals), with modifications (1) to increase threshold for appraisal requirement from \$2,000 to \$5,000 (for

closely held stock, \$10,000); (2) to delete aggregation rule in determining dollar thresholds except for similar items (e.g., set of lithographs).

Donee reporting.--House recedes (to requirement of information reporting where charity sells donated item within 2 years), with a modification increasing the reporting threshold to \$5,000.

Effective date (appraisal, reporting).--Contributions made after 1984.

(b) Modifications to incorrect valuation penalty (Code sec. 6659)

House recedes (i.e., delete 5-year exception; extend to E&G returns; make penalty time-sensitive), with modifications as applied to charitable deduction overvaluations only: (1) making penalty a flat 30% of tax underpayment where the claimed value exceeds 150% of correct value; (2) limiting IRS authority to waive penalty to instances where (a) the claimed value was based on an appraisal, and (b) the donor made a good faith investigation of value.

Effective date.--Returns filed after 1984.

(c) Disallowance rule for charitable deduction overvaluations (p.136)

Senate recedes (i.e., no provision)

L. Domestic Relations

114. Treatment of transfer of property between spouses or incident to divorce (p. 150)

Senate recedes.

115. Alimony (p. 150)

Senate recedes with amendments. No amount shall be deductible as alimony to the extent the amount is contingent on the status of a child (e.g., terminating when a child reached majority, dies or marries). Payments would not be considered alimony unless the agreement states that they must be made for at least six years unless either party dies or the payee remarries before the end of that period. The recapture provision in the House bill would be revised to provide for recapture to the extent alimony payments in any of the first six years exceed the lowest amount of alimony paid during any of those years, subsequent to such year, by more than \$10,000. (Years after the deaths of either party or the remarriage of the payee would be ignored if payments terminate by reason thereof.) The termination of death rule must be stated in the divorce investment.

M. Miscellaneous Reform Provisions

122. Limitations with respect to property which is partially used for personal purposes and for luxury automobiles (p. 160)

(a) Automobiles.

(a)(1) Percentage presumption.--House recedes.

(2) Percentage of use required for ACRS and ITC.--

House recedes with an amendment providing for

(a) a 50-percent test for

direct trade or business use (providing a 5% owner or related taxpayer with an automobile as compensation would not be treated as a trade or business use for this purpose),

(b) denial of ITC and mandatory use of 5-year straight-line depreciation for cars below the 50-percent test,

(c) application of these restrictions at the lessee level rather than the lessor level by denying a deduction of a percentage of lease payments equal to value of ITC and depreciation denied due to personal use,

(d) elimination of the standard mileage and 14-day rules,

(e) eligibility for credit and deduction by an employee only where use of car is a condition of employment, and

(f) partial sale treatment of a reduction in the business use percentage for recapture purposes.

(3) Basis limitation.-- Senate recedes with an amendment replacing the limitation on basis with a \$1,000 limit on ITC and a limit on depreciation of \$4,000 in the first year and \$6,000 in all subsequent years of use. These limits would apply at the lessor level, rather than the lessee level. These limits would be reduced proportionately for any personal use, and would be indexed for automobile price

inflation.

Effective date.--Property placed in service after June 18, 1984, with a binding contract exception.

(b) Property other than automobiles

House recedes with an amendment providing for

(1) a 50-percent test for direct trade or business use (providing a 5% owner or related taxpayer with property or compensation would not be a trade or business use for this rule, except that for aircraft, such compensation could be considered business use, provided that business use without consideration of such compensation is at least 25% of total use),

(2) depreciation on property that fails the business use test is straight-line over earnings and profits lives,

(3) application of these restrictions at the lessee level rather than the lessor level,

(4) no application of these rules to a computer exclusively located at a regular business establishment of the employer and owned by the employer,

(5) eligibility for credit and deduction by an employee only where use of property is a condition of employment, and

(6) partial sale treatment of reduction in the business use percentage for recapture purposes.

Effective date.--Property placed in service after June 18, 1984, with a binding contract exception.

(c) Compliance.

House recedes with an amendment deleting the verification requirement, retaining the requirement for contemporaneous records, and requiring that a preparer properly advise the taxpayer of recordkeeping rules and that the taxpayer certify in writing the existence of adequate records. Claiming an unsupported deduction would be per se negligent. The proportion of business use could never be greater than that based on mileage; commuting would always be considered personal use.

Effective date.--Taxable years beginning after 1984.

III. General Charitable Deduction Rules; Private Foundation Excise Tax Provisions

A. General Charitable Deduction Rules

149. Charitable deduction rules

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| (a) Charitable deduction rules applicable to public charities (percentage limitations; carryover) (p. 198) | Senate recedes (i.e., no provision). |
| (b) Charitable deduction rules applicable to non-operating (grantmaking) foundations | |
| (1) Percentage limitations on deductibility of contributions by individuals (p. 200) | (1) Senate recedes (i.e., 30%/20% AGI limits for cash-appreciated property donations). |

Effective date.--House
recedes (i.e., contribu-
tions made after enactment).

- (2) Carryover of con-
tribution amount ex-
ceeding percentage
limitation (p. 200)

(2) Senate recesses (i.e.,
5-year carryover).

Effective date.--House
recedes (i.e., contribu-
tions made after enactment).

- (3) Amount deductible
for contributions of
appreciated capital-
gain property (p. 202)

(3) Senate recesses (i.e.,
fair market value deduction
only for certain publicly
listed stock).

Effective date.--Contribu-
tions made after enactment,
with sunset after 1994.

VI. Technical Corrections

178. Technical Corrections

- (a) Effective date of
minimum tax
provision (sec.
611(a)(1)).

Senate recesses.

- (b) TRAC leasing
(sec. 612(d)(1)).

Senate recesses.

- (c) Effective date
for certain
section 304 pro-
visions (sec.
612(1)(7)).

Senate recesses with an
amendment to apply the
earnings and profits rules
and the acquisition
indebtedness rules to
transfers after date of
conference decision, unless
taxpayer elected to apply
these rules as if enacted in
TEFRA. The acquisition
indebtedness rule also would
apply to non-section 351
transfers if the debt was
incurred after October 20,
1983. Where the transfer is
a Bank Holding Company where
regulatory approval was
requested before date of
conference decision and
transfer occur within 90

- days after final regulatory approval, the transfer will be treated as made before date of conference decision.
- (d) Effective date for certain section 338 elections (sec. 612(k)(8)). Senate recedes with an amendment allowing all qualified purchases before September 1, 1982, to have until 60 days after enactment to make section 338 election. Also Senate amendment would clarify that the Treasury has authority to impose conditions (such as a carryover basis) in order to avoid consistency rules.
- (e) Foreign currency contracts (sec. 622(a)(4)). House recedes.

X. Miscellaneous Revenue Provisions

M. Extensions of Existing Provisions and Miscellaneous Transitional Rules

252. Investment income from S corporations (p. 350) Senate recedes with an amendment that a taxpayer, for 1983 and 1984, may elect to characterize subchapter S income, for purposes of sec. 163(d), under the rules in effect under the law prior to the Subchapter S Revision Act of 1982.
255. Provisions of Indian Tribal Government Tax Status Act of 1982 made permanent (p. 360) House recedes with technical modification providing that Indian Tribal government are treated as State governments for the following additional purposes:
- (1) Rules relating to accident and health plans;
 - (2) Expenses incurred in certain appearances with respect to legislation; and

(3) Rules relating to certain discount obligations.

258. Eliminating architectural and transportation barriers to the handicapped (p. 362) House recedes.

N. Social Security Tax Provisions

259. Tax-exempt interest in calculation of taxable social security benefits (p. 364) Open
260. Social security treatment of certain church employees (p. 364) Open
261. Coverage of employees under social security and Federal retirement systems (p. 368)
- (a) Employee transfers among different branches of Federal employment. Senate recedes.
- (b) Legislative branch employees. House recedes with technical amendments providing a 30-day period after enactment in which to rejoin CSRS, or else be covered by Social Security, for employees who took refunds or withdrew from CSRS between January 1 and June 15, 1984.
- (c) Nonprofit organizations covered by CSRS. House recedes.

O. Miscellaneous Provisions

266. Employee tips (p. 374) House recedes with modification clarifying that substantial owners of certain closely held corporations will not be considered employees.

267. FUTA treatment of tips
(p. 374)

Senate recedes with one-
year delay in effective
date.

